

THE
T R I A L
O F

HUGH WOLLAGHAN

Y E O M A N,

By a General Court Martial, held in the Barracks
of Dublin, on Saturday Oct. 13, 1798.

FOR THE MURDER OF

THOMAS DOGHERTY.

COLONEL EARL OF ENNISKILLEN, PRESIDENT.

To which is added
His Excellency LORD CORNWALLIS'S
ORDER FOR THE COURT-MARTIAL
TO BE DISSOLVED.

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H U G H W O L L A G H A N,
FOR the MURDER of THOMAS DOGHERTY,

Proceedings of a General Court Martial, held in
the Barracks of Dublin, on Saturday Oct. 13, 1798,
by order of Lieut. Gen. Craig.

Col. Earl of Enniskillen, President.

Major Brown, R. I. D. Capt. Irwin, R. I. D.
Capt. Onge, do. Capt. Carter, do.
Capt. Leslie, Fermanagh, Lieut. Summers, 68th.

Joseph Atkinson, Esq. D. J. Advocate.

The Court being met and duly sworn, proceeded to the trial of Hugh Wollaghan, of Middleton in the co. Wicklow, yeoman, charged with having, on the 1st of October, inst. come to the house of Thomas Dogherty, and did then and there shoot and kill the said Thomas Dogherty, to which he

was encouraged by Charles Fox and James Fox, of the afore said county, yeomen—and the said James Fox is likewise charged with having discharged a loaded gun at Margaret Barry of Delgany, on the 1st Oct. inst.

The prisoner being duly arraigned, pleaded not guilty.

Mary Dogherty, of Delgany, in the county of Wicklow, sworn.

Q Do you know the prisoner at the bar?—A. I do.

The witness deposed that on last Monday week, the prisoner, Hugh Wollaghan, came into her house at Delgany, and demanded if there were any bloody rebels there—that on deponent's answering there was not, only a sick boy, the prisoner Wollaghan asked the boy if he was Dogherty's eldest son; upon which the boy stood up and told him he was; Wollaghan then said, "well, you dog, if you are, you are to die here;" that the boy replied, "I hope not; if you have any thing against me, bring me to Mr. Latouche, and give me a fair trial, and if you get any thing against me, give me the severity of the law;" that Wollaghan replied, "no, you dog, I don't care for Latouche, you are to die here;" upon which deponent said to Wollaghan, (he then having the gun cocked in his hand) "for the love of God, spare my child's life and take mine;" that Wollaghan replied, "no you bloody

where, if I had your husband here, I would give him the same death." He then snapped the gun, but it did not go off—he snapped it a second time but it did not go off; upon which a man of the name of Charles Fox, but not either of the two prisoners at the bar, came in and said, "damn your gun, there is no good in it;" and that the said Fox at the same time observed to Wollaghan, that that man (pointing to deponent's son), must be shot; that deponent then got hold of Wollaghan's gun, and endeavoured to turn it from her son, upon which the gun went off, grazed her son's body, and shot him in the arm—the boy staggered—leaned on a form—turned up his eyes, and said "mother pray for me!" that on Wollaghan's firing the gun, he went out at the door, and in a short time returned in again, and said, "is not the dog dead yet?" that deponent replied, "oh! yes, Sir, he is dead enough!" upon which Wollaghan replied (firing at him again) "for fear he is not, let him take this; deponent was at that instant holding up her son's head, when he fell—and died!

Q. Who was in the house at this time?—A. Either Dogherty, sister to the deceased, was in the house when the first shot was fired, and then went away; another sister, Mary Dogherty, was in the house when Wollaghan first came in, but left it before he fired the gun.

The prisoner, James Fox, the elder, was outside the door with a gun, but took no active part.

as far as I could see, in the business—the prisoner, James Fox, I have nothing to alledge against.

CROSS EXAMINED.

Prisoner to witness. Were not your husband and other son concerned in the rebellion?—A. I can't tell.

Q. Don't you believe your son was killed at Dnnboyne, fighting the King's forces?—A. He was not, he is now alive and working at his trade.

Q. Don't you believe your deceased son was a rebel, and engaged in the battle of Dnnboyne, against the King's forces?—A. I do not; he has been accused of it.

Q. Did you ever hear that the deceased was taken prisoner as a rebel?—A. He was taken as a rebel, as I suppose, and was afterwards put on board a ship lying in the river, where he was sick, and was got off by Lord Cornwallis's orders, through Mrs. Latouche, and put into the navy hospital.

Q. Do you recollect seeing this paper before (shewing the witness a manuscript song)?—A. I never did to the best of my knowledge.

The paper was read in Court and is annexed No. 1.

The evidence again repeats that she never saw or heard of it before.

Q. Where is your husband, and how long has he been from home?—A. He is now in Dublin, working at his trade of brogue-making, but he

was reaping at home at Delgany a month before this.

Q. When did you last see your son, who you say is living?—A. Three months ago, at New-town Park, working at his trade of brogue-making.

Q. Did you ever hear of any quarrel or dispute between your son and the prisoner Wollaghan?—A. I never did.

Esther Dogherty, sister to the deceased, being examined as to the same points as her mother, gave similar evidence.

Margaret Barry being called upon, and duly sworn, informed the Court, that she had nothing to say against James Fox, or any of the prisoners at the bar.

The prosecution being closed, and the prisoner, Hugh Wollaghan, being called to his defence, called on Richard Byrne, a private in the Wallace fencibles, who was duly sworn.

Prisoner to Byrne. Did you know the deceased, Thomas Dogherty, his father and brother?—A. I did.

Q. Have you any, and what reason to think they were rebels, and did you see any of them exercise as such?—A. Yes, I have seen them exercise with poles or pikes, at Mr. Johnson's fields, at Killnecarrig, four miles beyond Bray, in the beginning of last spring.

Q. Did any, and which of them, apply to you to join them as rebels?—A. Thomas Dogherty, the

man that is dead, asked me why I was not in among the body what body, said I? upon which he said, I'll leave you as you are.

Q. Where did you find this paper (alluding to No. 1)?—A. This paper came out of the pocket of Dogherty's mother, in the church-yard at Delgany; the day on which the Coroner's Inquest sat on the body of her deceased son; I picked it up, conceiving it to be a bank note, but finding there was no stamp on it, I shewed it to a friend, as I can't read myself, and he told me it was a damned good thing; and the first time I saw Capt. Gore, who commands the Newtown-mount-kennedy yeomanry, I gave it to him.

Q. When did you give it to him?—A. That day.

Q. Where do you live?—A. This month past at the rendezvous in Kevin-street, where I have been since I enlisted, except the time I went to Delgany.

Q. Where did you live before?—A. At Killencarrig, as a servant to a widow, and I was there near ten months.

Q. How far is Killencarrig from Delgany?—A. About half a mile.

Capt. Gore was called and sworn.

Who deposed, that he got the paper, marked No. 1, from the witness Byrne.

Edward Weyman, a private of the Newtown-mount-kennedy yeomanry, was sworn.

Prisoner to Weyman.—Did you know the Dogherty's, and were any, and which of them, reputed

rebels?—A. I did, and the three were reputed such.

Q. Did the mother of the deceased give you any furniture to keep, and what expressions did she make use of on that occasion?—A. She did; she sent her daughter to me just after the Ancient Britons had been at Delgany, and requested that she might leave some leather, and other articles, in a sack at my house, which I consented to, and she sent them accordingly, and I kept them about a month after the action at Mount-kennedy; she offered them to me for sale, and when I pointed out the mischief that arose from the rebellion, she, with her hands lifted up, cursed the authors of it, and said, that it brought ruin on herself and family, and that she had not seen her husband and sons for some time back. This conversation took place about the beginning of June.

The prisoner requested the indulgence of the Court until Monday to proceed with his defence, and the Court adjourned accordingly.

MONDAY, Oct. 15.

The Court met pursuant to adjournment.

Thomas Vicars, E/q. sworn.

Prisoner. Do you know, and by what means, Thomas Dogherty was liberated, and returned to the county Wicklow, and for what he was confined?—A. I understood that he had been taken in arms against the King's forces, in the county Westmeath—was tried by a Court Martial of the

Carlow militia, and was sent to one of the guard-ships in the river Liffey, to be transported, but by intervention of Mrs. Latouche to Mr. Cooke and General Cradock, was liberated.

Q. Do you know if Dogherty had any protection, and from whom?—I don't know that he had, nor did I ever hear of his having one.

Q. Do you know if he took the oath of allegiance after he was liberated?—A. I don't know that he ever did.

Court.—Do you know if he had been guilty of any act of rebellion since his release?—A. I don't know of any.

Isaac Sutton of Rathdrum, co. Wicklow, sworn.

Prisoner.—Did you know the late Thomas Dogherty?—A. I did. I was taken prisoner by the rebels, near Roundwood, in the county Wicklow, about the month of May last, and he was one of the guard over me, for I heard his name called Thomas Dogherty, and he answered to the name, and that he was a brogue-maker at Delgany.

Q. Did you know Dogherty before you were taken prisoner, or did you see him since you got away from the rebels?—A. No.

Q. How do you know that it is the same Thos. Dogherty that was shot?—A. It struck me that it was the same when I heard of his death, but I don't know that it is the same.

George Kennedy, Corporal of the Mount-kennedy Yeomen, sworn.

Prisoner. Do you know Captain Armstrong,

in what district did he command, and do you know of any General Orders issued by him at any time, and when, relative to the shooting Rebels—what were those orders and when were they given?—A. I do know Captain Armstrong of the King's County militia, who commanded at Mountkenedy before and after that Dogherty was shot, in consequence of the enormities and murders committed in that neighbourhood by day and by night. The general orders given by him were, that any body of yeomanry going out, he would wish them not less than 9 or 10 for their own safety, and if they should meet with any Rebels, whom they knew or suspected to be such, that they need not be at the trouble of bringing them in, but to shoot them on the spot. This order was before Dogherty was killed; the witness communicated this to the corps, and is very certain in the hearing of the prisoner, Wollaghan.

Q. Do you know of any party of your corps being ordered out on the 1st of October last, for the purpose you mention, and by whose orders did they go out on that day?—A. I don't recollect any thing about it, as I was confined to my bed on that day.

Q. Do you know me; what is my general character as to sobriety and regularity in the corps.—A. I have known you upwards of 9 months in the corps, and I have known you during that time to be a sober, faithful and loyal yeoman, and, not

degrading the rest of the corps, one of the best in it.

Q. Was it not the practice of the corps to go out upon scouring parties, without orders, to protect their own property and that of their neighbours?—A. I always looked upon it as an order, and practice of the corps, particularly after what Captain Armstrong had mentioned.

Q. Would you yourself from his character and the orders you received have thought yourself justified to shoot him?—A. Yes, certainly I would.

Q. In any parties you have been with the prisoner did you ever see him commit any act of cruelty or shew any inclination to it?—A. No, I never saw him do any thing but what was his duty.

John Fox of the Newtown-Mount-Kennedy corps, sworn.

N. B. This evidence corroborated that of Kelly's, the questions being the same.

Serjeant Nath. Hayes of the Newtown-Mount-Kennedy Yeomen, sworn.

Deposed, that he knew the prisoner 4 months in the corps, and that he had always behaved as a sober, loyal, brave man, and good subject.

Prisoner. Do you know of any general orders issued to your corps, and by whom?—A. I do.—Captain Armstrong of the King's County militia said in my hearing that he would shoot or hang any Rebels whom he suspected, and told the people under his command to do the same—this order

was issued before Thomas Dogherty's death, and I should consider myself authorized to do so, under that order.

*Lieutenant William Tomlinson, of the Rathdrum
Yeoman cavalry, sworn.*

Prisoner. What were the orders issued to your corps, and those in your vicinity, respecting the Rebels?—A. It was generally understood, that orders were given to the corps, not to bring in prisoners, but to shoot any that were known to be Rebels.

Q. Do you recollect when those orders were understood to have come out, and by whom they were issued?—A. I don't know who they came from, but they came out after the attack at Arklow.

*Lieutenant George Auderin, of the Newtown-
Mount-Kennedy Yeomen, sworn.*

And deposed, that he has known the prisoner particularly, upwards of ten years; that he is a good and loyal subject, and ready at all hours to do his duty; and that he never knew him cruel; on the contrary, never saw him act inhumanly—that since the death of Dogherty he attended parade, until apprehended for this charge.

Captain Archer, of same corps, sworn.

Deposed he knew the prisoner since he was a child, and that he worked for him in his profession, a mason, and always found him a sober and diligent man, and since his being a Yeoman, ready

to obey his officers, and looked upon him to be an acquisition to his corps.

Lieut. Richard Gore, same corps, sworn.

Who deposed that he has known the prisoner since the attack at Newtown; he was always obedient to his officers, and rather leaned to the side of mercy than not; part of the corps marched against the rebels, and the prisoner, particularly, shewed his promptitude, zeal, and courage on that occasion.

Captain Gore, sworn

Deposed that he has known the prisoner about four months, and that he was one of the best attendants on his duty as a yeoman, and that he knew him to be a loyal and brave soldier, and never knew him to be guilty of any act of inhumanity—and that it was the practice of the corps to scour the country without an officer, and verily believes they understood it was their duty to shoot any rebels they met with, or suspected to be such, and deponent has heard that other corps had similar directions in other districts.

Defence closed, and the prisoner's Counsel read an address to the Court for the prisoner.

The prisoner was acquitted.

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DUBLIN CASTLE, 18th Oct. 1798.

SIR,

Having laid before the Lord Lieutenant the proceedings of a General Court Martial, held by your orders in Dublin Barracks, on Saturday the 13th inst. of which Col. the Earl of Enniskillen is President, I am directed to acquaint you, that his Excellency entirely disapproves of the Sentence of the above Court Martial, acquitting Hugh Wollaghan of a cruel and deliberate Murder, of which by the clearest evidence, he appears to have been guilty.

Lord Cornwallis orders the Court Martial to be immediately dissolved—and directs, that Hugh Wollaghan shall be dismissed from the corps of yeomanry in which he served, and that he shall not be received into any other corps of yeomanry in this kingdom.

His Excellency further desires that the above may be read to the President and Members of the Court Martial in open Court.

I have the honour to be,

S I R,

Your most obedient, humble servant,

H. TAYLOR, Sec.

Lieutenant General Craig, &c. &c.

P. S. I am also directed to desire, that a new Court Martial may be immediately convened for the trial of such prisoners as may be brought before them—and that none of the Officers who sat upon Hugh Wollaghan, be admitted as Members.

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